

§ 48A-16. Trust to be established.

(a) The trustee or trustees shall establish a trust pursuant to this section at a bank, savings and loan institution, credit union, brokerage firm, or company registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., unless a similar trust has been previously established, for the purpose of preserving for the benefit of the minor the portion of the minor's gross earnings pursuant to G.S. 48A-14(a) or pursuant to G.S. 48A-15(a). The trustee or trustees shall establish the trust pursuant to this section within seven business days after the minor's contract is signed by the minor and the employer.

(b) Except as otherwise provided in this section, prior to the date on which the beneficiary of the trust attains the age of 18 years or the issuance of a declaration of emancipation of the minor under Article 35 of Chapter 7B of the General Statutes, no withdrawal by the beneficiary or any other individual, individuals, entity, or entities may be made of funds on deposit in trust without written order of the superior court pursuant to G.S. 48A-14(g) or G.S. 48A-15(e). Upon reaching the age of 18 years, the beneficiary may withdraw the funds on deposit in trust only after providing a certified copy of the beneficiary's birth certificate to the financial institution where the trust is located.

(c) The trustee or trustees shall, within 10 business days after the minor's contract is signed by the minor and the employer, prepare a written statement under penalty of perjury that shall include the name, address, and telephone number of the financial institution, the name of the account, the number of the account, the name of the minor beneficiary, the name of the trustee or trustees of the account, and any additional information needed by the minor's employer to deposit into the account the portion of the minor's gross earnings prescribed by G.S. 48A-14(a) or G.S. 48A-15(a). The trustee or trustees shall attach to the written statement a true and accurate photocopy of any information received from the financial institution confirming the creation of the account, such as an account agreement, account terms, passbook, or other similar writings.

(d) If the trust is established in the United States, it shall be established either with a financial institution that is and remains insured at all times by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or the National Credit Union Share Insurance Fund or their respective successors, or with a company that is and remains registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq. If the trust is established outside the United States, the financial institution shall be an international banking corporation, as defined in G.S. 53-232.2. The trustee or trustees of the trust shall be the only individual, individuals, entity, or entities with the obligation or duty to ensure that the funds remain in trust, in an account or other savings plan, in a financial institution insured in accordance with this section, or with a company that is and remains registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., as authorized by this section.

(e) Upon application by the trustee or trustees to the financial institution or company where the trust is held, the trust funds may be handled by the trustee or trustees in any of the following methods:

- (1) The trustee or trustees may transfer funds to another account or other savings plan at the same financial institution or company, provided that the funds transferred shall continue to be held in trust and subject to this section.
- (2) The trustee or trustees may transfer funds to another financial institution or company, provided that the funds transferred shall continue to be held in trust and subject to this Article and that the trustee or trustees have provided written notification to the financial institution or company to which the funds will be transferred that the funds are subject to this section and written notice of the requirements of this Article.

- (3) The trustee or trustees may use all or a part of the funds to purchase, in the name of and for the benefit of the minor:
- a. Investment funds offered by a company registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., provided that if the underlying investments are equity securities, the investment fund is a broad-based index fund or invests broadly across the domestic or a foreign regional economy, is not a sector fund, and has assets under management of at least two hundred fifty million dollars (\$250,000,000); or
 - b. Government securities and bonds, certificates of deposit, money market instruments, money market accounts, or mutual funds investing solely in those government securities and bonds, certificates, instruments, and accounts that are available at the financial institution where the trust fund or other savings plan is held, provided that the funds remain in trust at a financial institution insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or the National Credit Union Share Insurance Fund if within the United States or maintained in an international banking corporation, as defined in G.S. 53-232.2, if not within the United States; provided that those purchases have a maturity date on or before the date upon which the minor will attain the age of 18 years, and provided further that any proceeds accruing from those purchases be redeposited into that account or accounts or used to further purchase any of those or similar securities, bonds, certificates, instruments, funds, or accounts. (2003-207, s. 2.)